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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,991	03/19/2002	Katsuyuki Ogura	112107	5633

25944 7590 12/31/2003

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EXAMINER

RODRIGUEZ, PAMELA

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/099,991

Applicant(s)

OGURA ET AL.

Examiner

Pam Rodriguez

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7 and 12 is/are rejected.
- 7) ☒ Claim(s) 8-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.5 & 6. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species B in Paper No. 5 is acknowledged. The traversal is on the ground(s) that Species A and B are not patentably distinct and that a thorough search of any one of the species would encompass a search for subject matter of the remaining species. This is not found persuasive because, contrary to applicant's remarks, Species A (Figures 1-4) is patentably distinct from Species B (Figures 5-8) with respect to their damper structures. Each damper element of each species is structurally different. For example, Species A discloses a damper having a rotating shaft, nut, and electrode rings encased in a housing, while Species B discloses a damper having a rotating shaft, nut, flywheel, frame, and attachment plate. Therefore, each of these species has its own separate and distinct features for its damping structure. And further, the examiner contends that due to the damper structures of the Species being separate and distinct inventions each with different distinguishing features, a search of one of the species would not necessarily encompass a search for the remainder species. In other words, a flywheel, frame, and attachment structure of one damper would require a different field of search than that of just the electrode ring damper embodiment.

Applicant has further argued that the addition of Claim 12, a now generic claim, into the claims of the invention is also evidence that the species are not patentably distinct. However, this generic claim was not found to be allowable (see the rejection

below) and none of the remaining claims under prosecution depend from this claim, if the claim were eventually made to be allowable. Thus, the examiner still maintains the election requirement holds true.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

#### ***Information Disclosure Statement***

3. The IDS' filed on March 19, 2002 and on October 29, 2003 have both been received and all references therein have been considered. The examiner wishes to point out, however, that on the most recently filed IDS, two items were lined through. The first item is JP 06-146654, which was previously listed on the earliest filed IDS, and is thus a duplicate recitation. And on that same later filed IDS, the English language abstract and translation listing of this same Japanese patent document is not a valid listing for an IDS and has also been lined through. Applicant should note however, that all of these aforementioned documents have been considered by the examiner.

#### ***Specification***

4. The abstract of the disclosure is objected to because the element numerals listed in the text should be in parentheses. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

5. Claim 8 is objected to because of the following informalities: lines 4-7 of the claim are awkwardly worded. It appears that the word —is—should be inserted in line 6 before the word “obtained” in order for the claim passage to read more clearly. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al.

Regarding Claims 7 and 12, Sato et al disclose a damping device (see Figure 4) used in a feeding device ½ having all the features of the instant invention including: a rotating object 6 having a male thread formed thereon and rotating about a rotation axis (see Figure 1), a motor rotating the rotating object 6 (see column 1 lines 26-29), and a movable object 2 making a linear motion (see column 1 lines 30-35), the damping device comprising: a vibration damper D provided with a female thread (i.e., the thread of nut 5, see column 3 lines 41-48) fitted into the male thread of the rotating object 6 (see Figure 4) and transforming a rotating motion of the rotating object 6 into the linear motion, filled with an electroviscous fluid having a viscosity changing in accordance with

a value of voltage applied to the electroviscous fluid (see column 4 lines 1-23), and movably supporting at least a part of the movable object 2 in the electroviscous fluid (see Figure 4), a voltage applicator 107 applying the voltage to the electroviscous fluid in the vibration damper (see column 4 lines 18-33), and a controller VC controlling an operation of the voltage applicator so that an optimum voltage, at which the viscosity of the electroviscous fluid absorbing a vibration of the movable object 2 most effectively is obtained, can be applied to the electroviscous fluid in the vibration damper D in accordance with a moving speed of the movable object 2 (see column 5 line 49 – column 6 line 2).

#### ***Allowable Subject Matter***

8. Claims 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dai discloses a damping device used in a machine comprising a moving object and a motor moving the object, wherein the damping device comprises a vibration damper filled with electroviscous fluid having a viscosity which changes according to a value of voltage applied to it, a voltage applicator, and a controller for controlling the

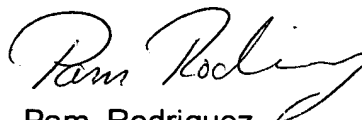
operation of the voltage applicator so that the viscosity of the fluid can be changed in accordance with a moving speed of the moving object.

Brotz discloses a damping device for a machine comprising a vibration damper filled with electroviscous fluid, whose viscosity can be altered via a voltage applicator.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657. The examiner can normally be reached on Mondays 6 am -4 pm and Tuesdays 6 am -12 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Pam Rodriguez  
Primary Examiner  
Art Unit 3683  
12/15/03

PR  
12/15/03